

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALLIANZ GLOBAL CORPORATE &
SPECIALTY
as subrogee of
ABEC INC.,

Plaintiff,

-Against -

M/V SAUDI HOFUF, her engines, boilers, etc.,
M/V SAUDI DIRIYAH, her engines, boilers, etc.,
M/V SAUDI ABHA, her engines, boilers, etc.,
THE NATIONAL SHIPPING COMPANY OF
SAUDI ARABIA,
AGILITY PROJECT LOGISTICS, INC, and
DP WORLD UAE REGION FZE,
Defendants.

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Docket No. 11 cv 7221 (PAC)

**DECLARATION OF
JAMES F. SWEENEY IN
OPPOSITION TO
DEFENDANT DP
WORLD'S MOTION FOR
SUMMARY JUDGMENT**

Pursuant to 28 U.S.C. § 1746, JAMES F. SWEENEY declares as follows:

1) I am a member in good standing of the bar of this Court and I am a partner in the law firm of Nicoletti Hornig & Sweeney, counsel to plaintiff herein.

2) I submit this Declaration upon personal knowledge and in opposition to defendant DP World UAE Region FZE's Rule 56 motion for summary judgment and its Rule 12(c) and (i) motions for dismissal.

3) A copy of the *Memorandum of Law Submitted by Defendant DP World Limited in Opposition to Plaintiff's Motion to Amend the Complaint and in Support of DP World's Motion for Summary Judgment* is attached hereto as Exhibit A to this Declaration.

4) On its website, DP World states that it operates "over 60 terminals across six continents." See DP World website "About DP World Overview",

http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/About-DP-World/Overview; *see also* DP World Website “Contact Us – Offices”, http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Contact-Us/Offices.

5) According to its website, DP World operates an office in Charlotte, North Carolina. *See* DP World website “Americas Overview”, http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Marine-Terminals/Locations/Australia-and-Americas/Americas-Overview.

6) According to its website, DP World is organized in an “integrated global management structure.” Under this integrated structure, DP World has divided itself into eight departments: a head office located in Dubai, and seven “regions.” Each region represents a portion of DP World’s global empire of port terminal operations. *See* DP World Establishes Integrated Global Management Structure, May 25, 2006, http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Media-Centre/News-Releases/News-Releases-2006/18%20DP%20WORLD%20ESTABLISHES%20INTEGRATED%20GLOBAL%20MANAGEMENT%20STR.PDF.

7) According to its website, DP World’s head office “oversee[s] management of [DP World’s] global terminal network” and “shape[s] the policies and procedures that govern the company’s day to day operations across the globe.” *See* DP World Careers Website: Corporate Head Office, <http://careers.dpworld.com/careers/dw/dpworld/Page.aspx?PageID=3127>

8) Each region is headed by a DP World Executive. *See* DP World Establishes Integrated Global Management Structure, *supra*.

9) According to its website, the seven regional Senior Executives, along with DP World's CEO, Executive Vice President and Chief Operating Officer, CFO, CIO, Senior Vice Presidential Commercial, Senior Vice President Business, Senior Vice President HR, and Senior Vice President Legal comprise DP World's corporate management team. *Ibid*.

10) According to the DP World UAE Region FZE website, DP World UAE Region FZE has a six-member management team. One of the six managers, Sultan Ahmed Bin Sulayem, also acts as Chairman of the DP World Board; a second, Jamal Majid Bin Thaniah, acts as the Vice Chairman of DP World; another, Mohammed Sharaf, holds the position of Chief Executive Officer of DP World; and a fourth, Mohammed Al Muallem, is a Senior Vice President of DP World. *See* DP World UAE Region FZE Website biographies of DP World UAE management team, <http://www.dpworld.ae/en/content.aspx?P=kH2YsV8LUJr8seACvQY2%2bw%3d%3d&mid=ySWC9YznF5fS7rkdn3JIIA%3d%3d>

11) DP World UAE Region FZE's website contains press releases issued by the terminal. These press releases are issued under the DP World logo. *See* DP World Press Releases "JEBEL ALI's NEW MEGA TERMINAL IS DESIGNED TO RECEIVE NEXT GENERATION CONTAINER SHIPS", <http://www.dpworld.ae/uploads/pressrelease/English/699232012102844PM743-23%2009%202012%20Jebel%20Ali%20T3%20Civil%20Works%20Agreement%20-%20En.pdf>, and "JEBEL ALI PORT SETS NEW PRODUCTIVITY RECORD

DELIVERING 259 BERTH MOVES PER HOUR”,

<http://www.dpworld.ae/uploads/pressrelease/English/3122012122506AM347-December%2018.pdf>.

12) On the DP World website, DP World UAE’s Jebel Ali terminal operations are held out as DP World’s “flagship facility.” *See* DP World Press Release: Expo Chief Tours Jebel Ali Port, March 1, 2012,

http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Media-Centre/News-Releases/News-Releases-2012/01%2003%20DPW%20BIE%20visit%20-%20En%20%282%29.pdf (“DP World welcomed yesterday . . . [the] Secretary

General of the Bureau International des Expositions . . . *to its flagship facility*, Jebel Ali Port. . .”) (Emphasis added); *See DP World Investor Presentation: Global Ports*

Connecting Global Markets, page 16, January 2012, [http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Investor-Centre/Presentations/Conference-and-](http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Investor-Centre/Presentations/Conference-and-Roadshows/Investor%20Presentation%20%28Jan%202012%29%20FINAL.pdf)

[Roadshows/Investor%20Presentation%20%28Jan%202012%29%20FINAL.pdf](http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Investor-Centre/Presentations/Conference-and-Roadshows/Investor%20Presentation%20%28Jan%202012%29%20FINAL.pdf)

13) DP World posts vacancies for job openings at DP World at its various sub-departmental entities. *See* DP World Website “Vacancy List”, careers.dpworld.com/careers/dw/dpworld/DPWVacancySearch.aspx.

14) Jobseekers browsing DP World’s vacancy list can search for job openings at specific DP World divisions and at specific countries and cities/locations in which DP World operates. *Id.*

15) DP World’s job vacancy search function “location” field lists “New York, USA.” *Id.*

16) Through DP World's website, a jobseeker may electronically apply for DP World vacancies. *See* DP World Website Vacancy Example, <http://careers.dpworld.com/careers/dw/dpworld/DPWVacancyDetail.aspx?VacancyID=49787> (an individual clicking the hyperlink entitled "Apply" is taken to a webpage which allows the user to apply for selected positions).

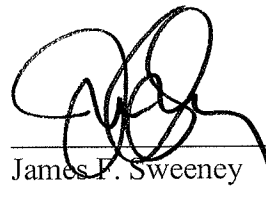
17) Every year since at least 2009, DP World solicited investments within New York. *See* DP World Website Conferences and Roadshows Investor Presentation Materials, http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Investor-Centre/Presentations/Conference-and-Roadshows (demonstrating DP World's attendance at the Bank of America Merrill Lynch Conference, held in November 2011; the April 2010 Morgan Stanley Conference in New York; and the December 2009 Goldman Sachs Conference); *See also* DP World Website Calendar, http://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Investor-Centre/Calendar (noting DP World's attendance at the September 4-6, 2012 Deutsche Bank EMEA Investor Conference in New York); 2011 Bank of America Merrill Lynch Banking and Financial Services Conference Press Release, <http://investor.bankofamerica.com/phoenix.zhtml?c=71595&p=irol-newsArticle&ID=1628635&highlight=#fbid=AzJafWPk0Sh> (demonstrating that this conference, noted supra, was held in New York); Goldman Sachs US Financial Services Conference 2009 Agenda, <http://www.secuthere.com/ui/18/182354/fsc2009agenda.pdf> (demonstrating that this conference, noted supra, was held in New York).

18) According to its website, DP World owns 100% of DP World FZE's stock. See DP World Limited London Listing Prospectus, pages 156-157, 198, 200 (May 25, 2011), https://webapps.dpworld.com/portal/page/portal/DP_WORLD_WEBSITE/Investor-Centre/Regulatory-Announcements/DP%20World%20London%20Listing%20Prospectus%2025%20May%202011CP_0.pdf.

19) Finally, and with respect to defendant's motion for summary judgment, plaintiff is handicapped by the lack of any discovery herein. Defendant made this Rule 56 motion before producing a single document or witness. Apart from Internet sources, plaintiff is at a distinct disadvantage to learn/discover the interrelationship between DP World and DP World UAE Region FZE, the degree to which DP World controls DP World UAE Region FZE's management and finances, and/or whether either/both entities are subject to the jurisdiction of this Court. In the circumstances, this Court should authorize/permit jurisdictional discovery pursuant to Fed. R. Civ. P. 56(d)(2).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 9, 2012
New York, New York


James P. Sweeney